

Summary of Commission Discussion

The Delta Protection Commission's March 26 discussion of the draft *Land Use and Resource Management Plan* focused on policies that had multiple options.

Topic 1: Land Use P-3 – Buffers

Draft Text: (Page 10 in the clean version, pages 11-12 in the redline version)

P-3. Option 1: New non-agriculturally oriented residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing adjacent agricultural parcels. Buffers shall adequately protect integrity of land for existing and future agricultural uses and shall not include uses that conflict with existing agricultural operations on adjacent agricultural lands. Appropriate buffer setbacks shall be *a minimum of 500 feet, and beyond that distance, the setback determination shall be based on the expertise of local Agricultural Commissioners based on applicable general plan policies and criteria included in Right-to-Farm Ordinances adopted by local jurisdictions.*

P-3. Option 2: New non-agriculturally oriented residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing adjacent agricultural parcels. Buffers shall adequately protect integrity of land for existing and future agricultural uses and shall not include uses that conflict with existing agricultural operations on adjacent agricultural lands. Appropriate buffer setbacks shall be *based on the expertise of local Agricultural Commissioners based on applicable general plan policies and criteria included in Right-to-Farm Ordinances adopted by local jurisdictions.*

- 1) The question was raised, *What is the intent of this policy?* Possible answers included:
 - A. to protect agricultural land uses and activities from being constrained by residential development
 - B. to impede further residential development
 - C. to minimize appeals regarding buffers
 - D. to prevent unreasonable fines for conditions beyond the farmer's control (e.g., being fined if a spray drifts 1,100 feet under prevailing winds)
- 2) Discussion of the draft options ensued:
 - Some Commissioners believed that a standard minimum buffer of 500 feet was arbitrary and generalizing, stating that if the goal is to protect agricultural land the number should be consistent with standards adopted in other (areas of the) counties.
 - Some Commissioners felt turning the decision about buffer width over to agricultural commissioners would give major authority to people who are not directly elected or accountable. Secondly, it was felt that agricultural commissioners could be put in the position of having to fight a Board of Supervisors that supports a particular development.
 - It was expressed that agricultural commissioners would still be responsive to the standards set by the county.

- Some Commissioners expressed concern that counties might lower their standards to “chase development.”
 - It was suggested that the history of a county’s policies would be a good guide to future actions.
 - Another noted that if the number 500 were removed, the policy would still reference Right to Farm and General Plan guidelines.
 - An additional Commissioner emphasized that there needs to be flexibility in how buffers are applied – levees and water create different barriers than flat open land.
- 3) A series of **proposals** were made to resolve the issue:
- A. buffers are “rebuttably presumed to be a minimum of 500 feet, and capable of being greater or lesser depending on specified factors”
 - B. drop the last sentence entirely
 - C. craft criteria that achieve the goal (E.g., size, shape)
- 4) Staff were directed to carry out the following **ACTIONS**:
- A. identify criteria for setting appropriate buffers
 - B. identify tools for creatively meeting the goals of specified buffer width (e.g., waterways, berms, tree shelter belts, cropping patterns, wildlife concerns, hedge rows)
 - C. check if Counties have a minimum buffer fallback and
 - D. check if Counties have Right to Farm ordinances that make this debate moot

Topic 2: Land Use P-4 – Residential Development (Location, Flood Protection, and Infrastructure)

Draft Text: (Page 10 in the clean version, page 12 in the redline version)

P-4. Option 1: New residential development shall be located within the existing unincorporated towns in the Primary Zone (Walnut Grove, Clarksburg, Courtland, Hood, Locke, and Ryde).

P-4. Option 2: New residential development shall be located in the Primary Zone *subject to the availability of support infrastructure and flood protection, as required by law.*

P-4. Option 3: New residential development shall be located in the Primary Zone *where support infrastructure and flood protection are already provided, as required by law.*

P-4. Option 4: New residential development shall be located in the Primary Zone *where support infrastructure and flood protection will be provided prior to the issuance of building permits, as required by law.*

- 1) **Discussion** of the draft options:
- Some Commissioners felt that the existing options don't allow for mitigation (e.g., via mounding or stilts).
 - Another Commissioner suggested that the existing unincorporated towns should be differentiated from development in new areas.
- 2) A series of **proposals** were made to resolve the issue:
- A. remove this policy entirely – nowhere has adequate protection, so this policy would equal no development (or farm labor housing)
 - B. remove this policy entirely – it's irrelevant because FEMA, USACE, CVFPB, and SB5 all regulate this topic
 - C. direct development to existing unincorporated towns (EUTs) where support infrastructure

and flood protection are provided pursuant to the law

Counterpoint: Farmers have buildable lots outside of EUTs and could build farmhouses there, so should allow TDRs and clustering outside EUTs where there is sufficient infrastructure

- 3) Some **minor edits** were suggested:
 - A. move “as required by law” to after “will be provided” in Option 4
 - B. “new residential development in the Primary Zone”
- 4) Staff were directed to carry out the following **ACTIONS**:
 - investigate map of all development rights on parcels in the Primary Zone – give a sense of scale

Topic 3: Land Use P-12 – Clustering and Transfer of Development Rights

Draft Text: (Page 11 in the clean version, page 13 in the redline version)

P-12. Option 1: Local governments that pursue clustering or transfer of development rights shall proceed with adoption procedures to implement such programs as part of the local government implementation of the resource management plan.

P-12. Option 2: Local governments that pursue clustering or transfer of development rights shall proceed with adoption procedures to implement such programs as part of the local government implementation of the resource management plan *consistent with zoning in place on January 1, 1992*.

- 1) The **question** was raised, *What is the intent of this policy?* Possible answers included:
 - A. to increase residential development
 - B. to encourage or pressure people to sell their development rights
- 2) **Discussion** of the draft options ensued:
 - Some Commissioners felt that a clustering/TDR policy could lead people to sell rights that they never otherwise intended to develop
 - Other Commissioners felt that people will buy these rights and create McMansions regardless, so setting up a program would allow for protection before this happens.
 - Additional Commissioners noted that a TDR program can stabilize agricultural land and its price, because it removes the home-building value from the land.
 - Another Commissioner stressed that the context for this policy needs clarification – it fits within the Land Use and Resource Management Plan goals, and CEQA and other standards remain.
- 3) A point of **agreement** was noted: a date reference is needed to ensure that after all rights are transferred, people cannot come back after a rezone and claim additional rights
- 4) **Discussion** of the **date reference** ensued:
 - A Commissioner suggested using 1992 – the date of Act and intention to prevent additional development.
 - It was suggested to avoid ex post facto legislation and set the date at 2009.

- In response, it was suggested that this did not make much difference, as there have been minor zoning changes since 1992.
- At the same time, it was noted that while there may not have been major zoning changes, many properties had been altered.

5) **Outstanding issues** noted include:

- A. ancient subdivision maps
- B. what occurs if there's an absence of water

6) Staff were directed to carry out the following **ACTIONS**:

- A. investigate map of all development rights on parcels in the Primary Zone in order to give a sense of scale of how much land could be affected by a clustering/TDR policy
- B. identify possible standards and limits for clustering and TDR programs – investigate Solano County's TDR program, as well as American Farmland Trust 1992 report on efficacy of TDRs
- C. investigate 1992-2009 zoning changes (e.g., Ag-80 to Ag-40), and the number of entitlements outstanding currently – i.e., how many units achieved vested rights between 1992 and 2009?

Topic 4: Water P-4 - Conveyance

Draft Text: (Page 16 in the clean version, pages 18-19 in the redline version)

P-4. Option 1: Continue to have Delta waterways serve as *a primary* transportation system moving water to and from the State's natural and developed water systems.

P-4. Option 2: Continue to have Delta waterways serve as *the primary* transportation system moving water to and from the State's natural and developed water systems.

P-4. Option 3: Continue to have Delta waterways serve as *a* transportation system moving water to and from the State's natural and developed water systems.

P-4. Option 4: (DELETE ALL TOGETHER. THIS OPTION IS RESPONSIVE TO SIGNIFICANT FEEDBACK.)

- 1) A point of **agreement** was noted: P-4 should be removed from the Plan.
- 2) Staff were directed to carry out the following **ACTION**: delete P-4 from the draft Plan.

Topic 5: Recreation and Access

1) Staff were directed to carry out the following **ACTIONS**:

- A. amend introductory language to note trends in regional recreation and increasing demand, yet how capital intensiveness of boating means that Delta recreation will become the purview of the wealthy if public facilities are not provided
- B. amend title of Recreation and Access element to read, "Recreation and Access, including Marine Patrol, Boater Education, and Safety Programs"